GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Fiscal Note 2019 Biennium

Bill #	SB0333	**Title:**	Generally revise medical marijuana laws
Primary Sponsor:	Caferro, Mary	**Status:**	As Amended

☐Significant Local Gov Impact ✓Needs to be included in HB 2 ✓Technical Concerns

☐Included in the Executive Budget ☐Significant Long-Term Impacts ☐Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2018 Difference	FY 2019 Difference	FY 2020 Difference	FY 2021 Difference
Expenditures:				
General Fund	$717,147	$85,040	$86,114	$87,205
State Special Revenue	$2,263,701	$578,829	$585,729	$596,029
Federal Special Revenue	$1,532	$0	$0	$0
Revenue:				
General Fund	$747,301	$377,100	$384,000	$394,300
State Special Revenue	$1,638,701	$578,829	$585,729	$596,029
Federal Special Revenue	$1,532	$0	$0	$0
Net Impact-General Fund Balance:	$30,154	$292,060	$297,886	$307,095

Description of fiscal impact: SB 333 creates a provider tax on marijuana products and requires seed-to-sale tracking and testing of medical marijuana premises. The provider tax is 4% of gross sales in FY 2018 and 2% in subsequent years. The Department of Public Health and Human Services will incur costs associated with information technology development, implementation and ongoing licensing, and interagency costs associated with collecting the tax revenue. SB 333 as amended requires identification cards include a picture and electronic information storage to track registered cardholder purchases.

FISCAL ANALYSIS

Assumptions:

1. SB 333 creates a sales tax on marijuana provider gross sales. The tax is imposed, collected and paid to DPHHS by the product provider and is paid on a quarterly basis.
2. The marijuana sales tax applies to the sale of marijuana products starting in fiscal year 2018. For fiscal year 2018, the tax rate applied to marijuana product sales is 4 percent of gross sales. For later fiscal years, the tax rate applied to gross sales is 2 percent.

3. Under current law, the only lawful sale of marijuana products in the state are those covered under the state's medical marijuana program. It is assumed that medical marijuana sales are the only sales that will pay the sales tax created by SB 333.
4. As Montana does not currently tax the sale of medical marijuana, it is assumed that a medical marijuana sales tax in Montana will generate a similar amount of revenue as medical marijuana sales taxes in other states.
5. Several states already apply their sales tax to the sale of medical marijuana. In FY 2014, California's sales tax on medical marijuana sale generated approximately $50 million in revenue from approximately $110 million in sales. For the same year, medical marijuana sales taxes in Colorado, Washington, Arizona and New Mexico generated approximately $10.5 million, $7 million, $7 million and $1.5 million in revenue respectively.
6. The number of registered medical marijuana users varies by state. Each of the five states listed previously had the following number of registered medical marijuana users: 758,600 in California, 138,060 in Washington, 107,800 in Colorado, 89,410 in Arizona, and 19,630 in New Mexico.
7. Each of the five states also taxes medical marijuana at different rates. The state of California has the highest sales tax rate, with a state tax rate of 6.25 percent and a mandatory local rate of 1.25 percent. Colorado has the lowest tax rate for medical marijuana, at 2.9 percent. When combined, the five states had an average statewide sales tax rate of 5.5 percent.
8. After adjusting for the different tax rates, the five states generated approximately $15.73 for each 1 percentage point increase in their sales tax rate on medical marijuana.
9. Based on the amount of revenue generated by the other states, it is assumed that a 2 percent tax on medical marijuana would generate $31.46 ($15.73 * 2) in revenue for each registered medical marijuana user in the state.
10. It is assumed the 4 percent tax for FY 2017 would generate $62.93 per user.
11. According to the Montana DPHHS' Montana Medical Marijuana Program, there were approximately 11,877 registered medical marijuana users in the state on average each quarter during calendar year 2016.
12. Assuming $62.93 in revenue will be generated for each medical marijuana user in the state, and 11,877 registered users, a 4 percent sales tax would generate $747,301 in revenue for FY 2018.
13. It is assumed that the number of registered medical marijuana users will increase at the same rate as Montana's general population. Montana's Department of Commerce projects that Montana's population will increase by 0.92 percent in 2019, 0.9 percent in 2020 and 0.84 percent in 2021.
14. The Department of Public Health and Human Services (DPHHS) assumes the completion of the information technology system changes necessary for tracking of marijuana plants from seed-to-sale will have an initial cost of $625,000, with ongoing maintenance and operating costs of $62,500 annually.
15. DPHHS assumes 65 pages of administrative rules will need amended and adopted. The Secretary of State fee for publication of rules is $60 per page. (65*60=$3,900.) Legal fees are funded at 56.33% general fund, 4.38% state special and 39.29% federal funds.
16. Based on quotes received a card-printing system is estimated to cost $95,000.
17. Producing cards that include both pictures and have electronic information storage devices is estimated to be $10 per card. With an estimated 11,877 registered medical marijuana users, the costs are expected to be $118,770. Cards expire every year, requiring card production to take place annually.
18. Additional costs associated with identification card printing, meta-data and image tracking, supplies and renewal notification are as follows:

IT costs related to Identification Card	FY 2018	FY 2019	FY 2020	FY 2021
Image processing and interface (800 hours)	$ 100,000			
Tracking metadata/images (2000 hours)	$ 250,000			
Printer/Ink	$ 10,000	$ 3,000	$ 3,000	$ 3,000
Cardholder/Provider interface with POS/Seed to Sale (1600 hours)	$ 300,000			
Mail notification for renewal (postage, etc)	$ 17,459	$ 17,459	$ 17,459	$ 17,459
Total	$ 677,459	$ 20,459	$ 20,459	$ 20,459

19. DPHHS shall set fees commensurate with administrative costs associated with operating the program. It is assumed that fees in the initial year of the program will be increased to pay for the initial implementation and development of necessary systems and operations to establish the program.
20. This fiscal note assumes that DPHHS will enter into an interagency agreement with the Department of Revenue (DOR) in order to collect, secure, and administer the anticipated revenue generated by SB 333.
21. Costs incurred by the DOR in the execution of the interagency agreement include the need to hire one additional FTE, and $714,950 in additional costs, in FY 2018. Of the $714,950 in additional costs, $550,000 will be required to update the department's integrated revenue information systems, $77,000 will be required to prepare the department's facilities to handle the tax payments, $13,440 will be required to hire an armored car service and an armed guard, and $64,348 will be required to hire an employee for compliance and auditing purposes. The department expects to incur $85,040, $86,114 and $87,205 in additional costs because of the proposed bill for fiscal years 2019, 2020 and 2021, respectively.

	FY 2018 Difference	FY 2019 Difference	FY 2020 Difference	FY 2021 Difference
Fiscal Impact:				
FTE	1.00	1.00	1.00	1.00
Expenditures:				
Personal Services	$64,348	$64,348	$65,314	$66,294
Operating Expenses	$20,392	$20,692	$20,800	$20,911
Equipment	$2,150,339	$201,729	$201,729	$201,729
Transfers	$747,301	$377,100	$384,000	$394,300
TOTAL Expenditures	$2,982,380	$663,869	$671,843	$683,234
Funding of Expenditures:				
General Fund (01)	$717,147	$85,040	$86,114	$87,205
State Special Revenue (02)	$2,263,701	$578,829	$585,729	$596,029
Federal Special Revenue (03)	$1,532	$0	$0	$0
TOTAL Funding of Exp.	$2,982,380	$663,869	$671,843	$683,234
Revenues:				
General Fund (01)	$747,301	$377,100	$384,000	$394,300
State Special Revenue (02)	$1,638,701	$578,829	$585,729	$596,029
Federal Special Revenue (03)	$1,532	$0	$0	$0
TOTAL Revenues	$2,387,534	$955,929	$969,729	$990,329
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	$30,154	$292,060	$297,886	$307,095
State Special Revenue (02)	($625,000)	$0	$0	$0
Federal Special Revenue (03)	$0	$0	$0	$0

Technical Notes:

1. DPHHS will incur program expenditures due to testing samples taken during annual inspections. Expenditures would include inspection materials, sampling tools, sample transport containers, and communication equipment. DPHHS is unable to estimate the exact cost as the amount of product is dependent on harvest and program evolution, which are unknown.

2. SB 333 requires the DPHHS to track marijuana plants from seed-to-sale. This section is effective immediately upon passage and approval. However, there is not currently a system set up to comply with this section of the bill. The department assumes that the necessary information technology changes will not be fully implemented until FY 2018.
3. The heading of Section 16 states that the section is effective June 30, 2017 (end of FY 17), whereas Section 28 states that Section 16 is effective July 1, 2017 (the beginning of FY 18). Therefore, it is assumed that any unencumbered fund balance existing at the end of FY 17 is not transferred to the general fund. As a result, this fiscal note assumes that the costs associated with the seed-to-sale IT system will be paid for from existing unencumbered fund balance within the state special revenue fund in FY 18. To the extent that unencumbered fund balance is insufficient to fund the development of the seed-to-sale IT system, the transfer of unencumbered fund balance to the general fund at the end of FY 18 would decrease by a like amount or be eliminated entirely, thereby increasing the impact to general fund balance.
4. The Department of Revenue will be challenged to fully update its tax system to accommodate the new tax by July 1, 2017.

Sponsor's Initials	*Date*	*Budget Director's Initials*	*Date*